

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Revision of the Commission's Rules	)	
To Ensure Compatibility with Enhanced	)	CC Docket No. 94-102
911 Emergency Calling Systems	)	
	)	
Petition of Corr Wireless Communications, L.L.C.	)	
For Waiver of the Requirements of	)	
Section 21.28 of the Commissions Rules	)	DA 01-1650
Regarding the Provision of E-911 Service	)	
	)	

**COMMENTS**

Public Service Cellular ("PSC")<sup>1/</sup> by its attorneys and pursuant to the Public Notice in the above-captioned proceeding, hereby supports the Petition for Waiver<sup>1/</sup> filed by Corr Wireless Communications, L.L.C. ("Corr").

I. CORR HAS MET THE REQUIREMENTS FOR GRANT OF A WAIVER OF COMMISSION RULES.

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<sup>1/</sup>Like Corr, PSC holds both cellular and personal communications service licenses. Also like Corr, PSC utilizes an industry-standard Lucent Technologies TDMA-based network of base stations and switching equipment.

<sup>2/</sup>Petition for Waiver in the above-captioned proceeding, filed June 22, 2001 ("the Corr Petition").

Section 1.3 of the Commission's rules provides that the Commission may grant a waiver "for good cause shown."<sup>1/</sup> Section 1.925 of the Commission's rules provides additional guidance to the consideration of waiver requests by wireless carriers. In addition, the Commission specifically established guidelines for the filing of E911 Phase II waiver requests in the above-captioned docket.

<sup>1/</sup> The Commission recognized the concerns expressed by certain carriers that implementation of Phase II ALI by the established deadline may not be possible and thus stated its willingness to consider such issues in response to requests for waivers.

The Commission-stated goal in the E911 proceeding is "to ensure the rapid, efficient, and effective deployment of ALI as part of E911, in order to promote the public safety and welfare."<sup>1/</sup>

By presenting a fair and reasonable alternative implementation schedule, Corr has demonstrated commitment to, and plans for achieving, the goals of Section 20.18. Corr's request for waiver is consistent with that Commission's goal.

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<sup>3/</sup>47 C.F.R. § 1.3.

<sup>4/</sup>See "Wireless Telecommunications Bureau Outlines Guidelines For Wireless E911 Rule Waivers for Handset-Based Approaches to Phase II Automatic Location Identification Requirements, CC Docket No. 94-102, Wireless E911 Phase II Requirements," *Public Notice*, DA 98-2631 (Dec. 24, 1998).

<sup>5/</sup>Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Memorandum Opinion And Order*, 12 FCC Rcd 22665, 22725 (1997).

Under the general waiver standard set forth in *WAIT Radio*,<sup>6/</sup> the Commission may exercise its discretion to waive a rule where waivers are founded upon an “appropriate general standard,” “show special circumstances warranting a deviation from the general rule,” and “such deviation will serve the public interest.”<sup>7/</sup> Below PSC will show that the Corr Petition satisfies these prerequisites to a Commission grant of a rule waiver.

A. Corr Has Shown Special Circumstances Warranting A Deviation From the General Rule.

Corr has filed a waiver request demonstrating technology-related issues and special circumstances that satisfy these prerequisites for a waiver of the rules. Corr provides a detailed explanation of the special circumstances that support its request to deploy Phase II E911 technology on a more graduated schedule than the rules require. Corr has demonstrated that it has diligently taken steps to comply with Phase II requirements. As such, Corr has been working with its technology vendors and equipment suppliers to implement Phase II,<sup>8/</sup> and seeks this waiver “in a good faith effort to comply with the spirit and intent of the E-911 rules on a basis and on a timetable which are within the bounds of the fiscally and technically possible.”<sup>9/</sup>

B. The Alternative Phase II E911 Implementation Schedule Proposed By Corr Would Serve the Public Interest.

Since Corr’s Lucent TDMA network will not be able to support a handset-based Phase II E911 system, Corr proposes instead to implement a network-based solution. However, it proposes a modified implementation schedule. Instead of providing service within 6 months of a PSAP

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<sup>6/</sup>*WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972) (*WAIT Radio*).

<sup>7/</sup>*Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990), *citing WAIT Radio*, 418 F.2d at 1159.

<sup>8/</sup>*See* Corr Petition at 3.

<sup>9/</sup>Corr Petition at 9.

request, as is required under the rules, Corr proposes to divide its market into tiers defined by the level of demand for 911 service. PSAP requests for Phase II E911 service in a given tier would be subject to the following implementation schedule:

- 1 immediately order and install the switch-related infrastructure necessary to provide Phase II;
- 2 provide Phase II service to the top 35% of the cell sites of any requesting jurisdiction within 9 months of receiving a request;
- 3 provide service to the top 50% of the cell sites within 12 months of request; and
- 4 provide service to the top 75% of cell sites within 18 months of the request.

As Corr demonstrates in detail, since the more economical, handset-based solution is unavailable to it, and since the cost of implementing a network-based solution on the timeline contained in the rules would be prohibitive, its proposal would be in the public interest as “it comes as close as possible, in terms of providing reasonably accurate location information, as soon as possible.”<sup>10/</sup>

## II. SMALL AND RURAL TDMA-BASED CARRIERS FACE UNIQUE ISSUES

Many of the smaller and rural-based, TDMA carriers advised the Commission in November 2000, of their plans to deploy a handset-based solution for meeting the E911 phase II requirements. This approach was selected because of the high costs associated with a network-based deployment coupled with the substantial question as to whether or not a network-based solution could be economically fashioned to provide the requisite level of accuracy in a non-urban environment. These TDMA carriers, through matters wholly beyond their control, find themselves unable to obtain ALI-capable handsets and switch-based solutions.

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<sup>10/</sup>*Id.* at 7, *citing* 14 FCC Rcd 17388 (1999) at 17458.

As the Commission is aware, AT&T Wireless and Cingular Communications, the two largest TDMA carriers, have independently announced decisions to migrate away from TDMA to a GSM protocol. The result has been a virtual halt of not only new handset features, such as ALI, for TDMA-based handsets, but also a discontinuance of feature development for the infrastructure providers. Accordingly it is rapidly becoming apparent that small and rural TDMA carriers will be faced with a costly, stand-alone network add-on solution as the only option. Unfortunately, as Corr points out, this solution is costly<sup>11/</sup> and, as Cingular points out, even expending the funds required, the FCC-mandated accuracy cannot be achieved.<sup>12/</sup> This is only further exacerbated in the non-urban environments where the cell-site density is well below that which Cingular utilizes. Accordingly, the accuracy questions documented by Cingular will magnify in the rural applications. While these facts provide additional support the grant of Corr's waiver, the Commission should be aware that these facts are not unique to Corr and that other small and rural TDMA carriers, like PSC, will most likely need to seek their own waivers once they receive a bona fide request from a PSAP triggering the six-month implementation schedule.

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<sup>11/</sup>See Corr Petition at 4-6.

<sup>12/</sup>See *generally*, Cingular Petition.

III. IN ADDITION TO THE ISSUES RAISED IN THE CORR PETITION, THE COMMISSION SHOULD CONSIDER THAT NETWORK-BASED SOLUTIONS WILL NOT MEET THE ACCURACY LEVELS REQUIRED BY THE RULES.

Corr's alternative implementation schedule fails to take into account the fact that even if it implements a network-based solution, currently-available TDMA network-based E911 Phase II solutions do not meet the accuracy requirements contained in the Commission's rules.

Section 20.18(e) of the Commission's rules requires that covered wireless carriers deploy Automatic Location Identification ("ALI") as part of Enhanced 911 ("E911") service beginning October 1, 2001. Pursuant to the rule, subject carriers are required to provide to the designated Public Safety Answering Point ("PSAP") E911 Service, i.e., the location of all 911 calls by longitude and latitude in conformance with the Phase II accuracy requirements set forth in Section 20.18, subsection (h). That subsection requires compliance with the following accuracy and reliability standards: (1) For network-based technologies: 100 meters for 67 percent of calls, 300 meters for 95 percent of calls; (2) For handset-based technologies: 50 meters for 67 percent of calls, 150 meters for 95 percent of calls.<sup>1/</sup>

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<sup>13/</sup>47 C.F.R. § 20.18 (h).

However, as Cingular Wireless LLC points out in its recent E911 Phase II Waiver Request, a network based solution for TDMA will not satisfy the Commission's location accuracy requirement for network-based solutions.<sup>14/</sup> In light of this fact, Corr may actually require more time to fully comply with the Commission's E911 Phase II requirements than is outlined in its graduated proposal. Since Cingular has entered information pertaining to this issue on the record in CC Docket 94-102, PSC urges the Commission to consider granting on its own motion to Corr either additional time to meet the accuracy requirements contained in the rules, or reduced accuracy requirements based upon what the currently commercially available equipment can provide.

### III. CONCLUSION

Corr has made clear that compliance with Sections 20.18 of the rules would be unduly burdensome and impractical. Granting Corr a waiver of Section 20.18 will allow Corr to pursue a reasonable alternative to providing ALI as part of E911 Service.

Corr has demonstrated "good cause." Specifically, Corr has shown special circumstances warrant a waiver and that a waiver of the Section 20.18 will serve the public interest. Grant of a waiver to permit it to deploy phase II, E-911 equipment on a slightly more graduated implementation schedule than the rules requires is fair, is necessary due to as a carrier whose network utilizes TDMA

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<sup>14/</sup>See *Cingular Wireless LLC Petition for Limited Waiver of Section 20.18(e)-(h) of the Commission's Rules*, CC Docket 94-102 (filed July 6, 2001) at i.

interface. Accordingly, for the foregoing reasons, PSC respectfully requests that the Commission grant Corr a waiver of Section 20.18 of the rules with respect to Phase II compliance.

Respectfully submitted,

PUBLIC SERVICE CELLULAR

By: /s/ Lisa L. Leibow

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July 26, 2001

CERTIFICATE OF SERVICE



I, LaWanda Y. Tyson, a secretary with the law firm of Kurtis & Associates, P.C., do hereby certify that I have this 26<sup>th</sup> day of July 2001, had copies of the foregoing "Corr Wireless Request for Waiver of E911 Phase II Requirements" sent via hand delivery to the following:

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Arlington, VA 22209

/s/ LaWanda Y. Tyson

\*Sent via First Class United States Mail, postage prepaid